

REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-22 are all the claims pending in the application. In response to the Office Action, Applicant respectfully submits that the claims define patentable subject matter.

I. Overview of the Office Action

Claims 1-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hancock et al. (U.S. Patent No. 6,764,037, hereafter “Hancock”) in view of newly cited Rambosek (U.S. Patent No. 6,628,479), LeNoue et al. (U.S. Patent No. 5,328,123, hereafter “LeNoue”) and Maehara (U.S. Patent No. 4,466,585). Applicant respectfully traverses the prior art rejections.

II. Prior Art Rejections

Claim 1 recites in part:

arc-shaped guide walls located in an inner surface of the upper case and an inner surface of the lower case, and which support an arc-shaped door between the inner surface of the upper case and the inner surface of the lower case.

The Examiner acknowledges that Hancock does not teach or suggest this feature of the claim. The Examiner thus relies on Rambosek to allegedly cure this conceded deficiency.

Applicant respectfully disagrees with the Examiner’s position.

Applicant respectfully submits that there is no teaching or suggestion in Rambosek of “arc-shaped guide walls located in an inner surface of the upper case and an inner surface of the lower case, and which support an arc-shaped door between the inner surface of the upper case and the inner surface of the lower case”, as recited in independent claim 1 and analogously

recited in independent claim 11. Figures 3 and 6 of Rambosek clearly show that the slots 41 and 51 which retain the door member 31 are straight and not arc-shaped, as required by the claims.

The Examiner states:

“Rambosek teaches providing guide walls on upper and lower cases for a sliding door of a recording tape cartridge”.²

However, Applicant notes that the Examiner does not address or provide specific support in the cited reference for the claimed arc-shaped guide walls.

In the previous Amendment filed on September 6, 2007, Applicant argued that there is simply no disclosure in LeNoue of the feature “at least one of a border portion between the peripheral wall and the ceiling plate and a border portion between the peripheral wall and the floor plate is thinner than a thickness of the peripheral wall”, as recited in independent claim 1 and analogously recited in independent claim 11.

Applicant submitted that the claimed invention discloses that a groove portion 60 is formed at an inner surface of a curved portion 16D which is a border portion between a ceiling plate 16C of the upper case 16 and the right wall 12B (peripheral wall 16A), and at an inner surface of a curved portion 18D which is a border portion between the floor plate 18C of the lower case 18 and the right wall 12B (peripheral wall 18A) (see page 23 of the original specification). The depth of the groove portion is formed to be thinner than a thickness of the peripheral walls 16A and 18A (pages 23 and 28 of the original specification).

² Page 6 of the Office Action dated October 3, 2007.

Applicant further submitted that LeNoue teaches a method of eliminating sink by reducing the thickness of the lower wall 48 to compensate for the excess plastic material required to form the strengthening ribs 72 (column 3, lines 61-67). LeNoue further teaches that a groove 74 located at a side of the strengthening ribs 72 extends into the lower wall 48 for at least between 30% to 50% of the thickness of the lower wall 48 (column 4, lines 4-12). Groove 74 is not a “border portion” as required by the claims, but is associated with the strengthening rib 72. Nowhere does LeNoue teach or suggest the feature “at least one of a border portion between the peripheral wall and the ceiling plate and a border portion between the peripheral wall and the floor plate is thinner than a thickness of the peripheral wall” as required by the claims.

In response, the Examiner merely asserts:

LeNoue shows Fig. 3-5 the lower and vertical walls to be substantially the same thickness. The thinned portion of the lower wall is, thus, thinner than the vertical wall, also.³

Applicant finds the Examiner’s position unclear. FIGS. 3-5 depict the strengthening rib 72 and lower wall 48. These are not synonymous with or do not equate to a border portion between the peripheral wall and the ceiling plate or a border portion between the peripheral wall and the floor plate, as claimed. Further, even if the lower wall 48 and the strengthening rib 72 of LeNoue are of the same thickness, this is irrelevant with regard to the claimed invention which requires that at least one of a border portion between the peripheral wall and the ceiling plate and a border portion between the peripheral wall and the floor plate is thinner than a thickness of the

³ Page 5 of the Office Action dated October 3, 2007.

peripheral wall. This feature of the claims is neither taught nor suggested by LeNoue or any of the cited references.

The fact that the grounds of rejection must rely on no less than four disparate references to allegedly teach all the recitations of claims 1 and 11, considered together with the failure of the grounds of rejection to identify a proper motivation to combine the references and with the Examiner's piecemeal selection of isolated disclosures from each of the four disparate references, evidences classic hindsight reconstruction on the part of the Patent Office.

Applicant further reminds the Examiner that the Examiner bears the initial burden of establishing *prima facie* obviousness. (MPEP § 2142). The grounds of rejection can satisfy this burden only by showing some objective teaching in the prior art or that the knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.

Rejections on obviousness grounds cannot be sustained by mere conclusory statements, instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Thus, the "teachings of references can be combined only if there is some suggestion or incentive to do so." Here, the Examiner relies on hindsight. One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. (*See In re Fine*, U.S.P.Q.2d 1596 (Fed. Cir. 1988)).

Therefore, Applicant respectfully submits that independent claims 1 and 1 should be allowable because the cited references do not teach or suggest all of the features of the claims. Claims 2-10 and 12-22 should also be allowable at least by virtue of their dependency on independent claims 1 and 11.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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